

of the report on Senate Concurrent Resolution 60 is not a prerequisite for the consideration of the concurrent resolution. The Chair overrules the point of order.

### § 3. Consideration in the Committee of the Whole

All bills on the Union Calendar must be considered in the Committee of the Whole unless otherwise provided for by the House.<sup>(14)</sup>

Consideration of business in the Committee of the Whole is initiated when the House agrees to resolve into the Committee for the purpose of such consideration pursuant to a resolution,<sup>(15)</sup> by unanimous-consent agreement,<sup>(16)</sup> by motion,<sup>(17)</sup> or by declaration of the Speaker pursuant to Rule XXIII.

Rule XXIII, clause (1)(b) provides:<sup>(18)</sup>

14. For examples of Union Calendar bills considered in the House as in the Committee of the Whole by unanimous consent, see §4, *infra*. For the requirement of considering certain bills in the Committee of the Whole, see Ch. 19, *supra*. For the duration of debate in the Committee, see §§ 74 et seq., *infra*.

15. See § 3.2, *infra*.

16. See §§ 3.3, 3.4, *infra*.

17. See §§ 3.10, 3.12–3.15, *infra*.

18. *House Rules and Manual* §862 (1995). This authority was first provided in rules adopted for the 98th Congress. H. Res. 5, Jan. 3, 1983.

After the House has adopted a special order of business resolution reported by the Committee on Rules providing for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the Committee of the Whole House on the state of the Union for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise.

The motion to resolve into the Committee of the Whole is not subject to the question of consideration, the motion itself being a test of the will of the House on the matter.<sup>(19)</sup>

The rejection by the House of the motion to resolve into the Committee for the consideration of a particular matter does not preclude the making of the same motion at a later time.<sup>(20)</sup>

Where a special rule adopted by the House prescribes the order of consideration of amendments to a bill in Committee of the Whole, the House<sup>(1)</sup> (but not the Committee of the Whole) may by unanimous consent alter the order of consideration.

#### Cross References

Control and distribution of time for debate in the Committee of the Whole, see §§ 24–34, *infra*.

19. See § 3.10, *infra*.

20. See §§ 3.12, 3.13, *infra*.

1. See 133 CONG. REC. 11829, 100th Cong. 1st Sess., May 8, 1987 (request of Mr. Aspin).

Duration of debate in the Committee of the Whole, see §§ 74–79, *infra*.

Procedure as to disorderly words in the Committee of the Whole, see § 48, *infra*.

Recognition on bills in the Committee of the Whole, see § 16, *infra*.

Recognition under the five-minute rule in the Committee of the Whole, see § 21, *infra*.

Recognition where five-minute debate has been limited in the Committee of the Whole, see § 22, *infra*.

Relevancy of debate in the Committee of the Whole, see §§ 37–39, *infra*.

### ***Special Rule Providing for House Calendar Resolution in the Committee of the Whole***

#### **§ 3.1 The Committee on Rules reported a resolution to the House providing for the consideration of a House resolution, also reported from the Committee on Rules, in the Committee of the Whole.**

On Apr. 3, 1968,<sup>(2)</sup> the Committee on Rules offered the following resolution:

H. RES. 1119

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1099)

2. 114 CONG. REC. 8776, 90th Cong. 2d Sess.

amending H. Res. 418, Ninetieth Congress, to continue the Committee on Standards of Official Conduct as a permanent standing committee of the House of Representatives, and for other purposes. After general debate, which shall be confined to the resolution and continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Standards of Official Conduct, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto.

#### ***—Immediate Consideration***

#### **§ 3.2 Upon the adoption of a resolution providing for the immediate consideration of a bill in the Committee of the Whole, the House resolves itself into the Committee without a motion being made from the floor.**

On Aug. 17, 1972,<sup>(3)</sup> Mr. William M. Colmer, of Mississippi,

3. 118 CONG. REC. 28829, 92d Cong. 2d Sess. See also Rule XXIII, clause (b), discussed in the introduction to this section, *supra*, concerning the Speaker's discretion in declaring the House resolved into the Committee of the Whole after the House has adopted a special rule.

called up at the direction of the Committee on Rules House Resolution 1090, providing as follows:

*Resolved*, That upon the adoption of this resolution, clause 27(d)(4) of rule XI to the contrary notwithstanding, the House shall immediately resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13915) to further the achievement of equal educational opportunities, and all points of order against said bill are hereby waived. . . .

The bill provided for had not yet been reported from the Committee on Education and Labor when the resolution was offered.

The House adopted the resolution, and Speaker Carl Albert, of Oklahoma, immediately directed the House to resolve itself into the Committee of the Whole, without the motion to resolve being made.

***Unanimous-consent Request To Resolve Into Committee***

**§ 3.3 The House agreed to a unanimous-consent request that the House resolve itself into the Committee of the Whole for the consideration of a Senate concurrent resolution on the House Calendar.**

On June 22, 1965,<sup>(4)</sup> the House agreed to the following unani-

4. 111 CONG. REC. 14400, 89th Cong. 1st Sess.

mous-consent request for the consideration of a Senate concurrent resolution on the House Calendar:

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, I ask unanimous consent that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Concurrent Resolution 36 expressing the sense of the Congress with respect to the 20th anniversary of the United Nations during International Cooperation Year, and for other purposes, and that general debate thereon be limited to 1 hour, one-half hour to be controlled by myself and one-half hour to be controlled by the gentlewoman from Ohio [Mrs. Bolton].

The House agreed to the request.

*Parliamentarian's Note:* The Senate concurrent resolution was thus amendable under the five-minute rule.

***—Unanimous Consent To Consider Bill in Committee Under General Rules of the House***

**§ 3.4 The House agreed to a unanimous-consent request to consider a Union Calendar bill in Committee of the Whole “under the general rules of the House” and to limit general debate in the Committee of the Whole to one hour.**

On Sept. 7, 1959,<sup>(5)</sup> the House agreed to the following request by Mr. Armistead I. Selden, Jr., of Alabama, to consider a Union Calendar bill in the Committee of the Whole under the rules of the House:

MR. SELDEN: Mr. Speaker, I ask unanimous consent that it may be in order to consider under the general rules of the House the bill (H.R. 9069) to provide standards for the issuance of passports, and for other purposes; that general debate continue for not to exceed 1 hour, one-half to be controlled by myself and one-half controlled by the ranking minority member of the Committee on Foreign Affairs.

*Parliamentarian's Note:* Without the adoption of the request as stated, a unanimous-consent request for the immediate consideration of a bill on the Union Calendar normally would result in its consideration under the five-minute rule in the House as in the Committee of the Whole, without general debate and under a procedure permitting all motions available in the House. The term "under general rules of the House" implies consideration in Committee of the Whole for a Union Calendar bill.<sup>(6)</sup>

5. 105 CONG. REC. 18442, 18443, 86th Cong. 1st Sess.

6. See also 107 CONG. REC. 14050, 14051, 87th Cong. 1st Sess., July 31, 1961.

***Objection to Unanimous-consent Request Followed by Motion To Resolve Into Committee***

**§ 3.5 Objection having been made to a unanimous-consent request to resolve into the Committee of the Whole for consideration on District of Columbia Day of a bill reported from the District of Columbia Committee and referred to the Union Calendar, a motion to resolve into Committee was offered as privileged and was rejected.**

On Aug. 11, 1964,<sup>(7)</sup> (a District of Columbia Monday) Mr. John V. Dowdy, of Texas, called up H.R. 9774, terminating the District of Columbia Plaza Urban Renewal Project. The bill had been on the Union Calendar. Mr. Dowdy asked unanimous consent that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill and asked unanimous consent that debate on the bill be limited to one hour. Objection was made to the request and the House then rejected a motion to resolve into the Committee

7. 110 CONG. REC. 18949, 18950, 88th Cong. 2d Sess.

of the Whole for consideration of the bill.

***Motion To Resolve Into Committee—Consideration of Disapproval Resolution***

**§ 3.6 The motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution, favorably reported from the Committee on Government Operations, disapproving a reorganization plan (under the Reorganization Act of 1949), was highly privileged and could be moved by any Member.**

On July 19, 1961,<sup>(8)</sup> Mr. Dante B. Fascell, of Florida, made the following privileged motion:

Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 328) disapproving Reorganization Plan No. 5 transmitted to the Congress by the President on May 24, 1961; and pending that motion, I ask unanimous consent that debate on the resolution may continue not to exceed 5 hours, the time to be equally divided and controlled by the gentleman from Michigan [Mr. Hoffman] and myself.

When Mr. Clare E. Hoffman, of Michigan, objected, Mr. Fascell

moved that the House resolve itself into the Committee of the Whole for the consideration of the resolution. Speaker Sam Rayburn, of Texas, then answered a parliamentary inquiry:

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, under title 2, section 204 of the public law [Pub. L. No. 81-109], paragraph (b) provides that such a motion may be made only by a person favoring the resolution. Is the gentleman from Florida in favor of the resolution, or does he disfavor the resolution?

THE SPEAKER: Under the rules, the gentleman does not have to qualify in that respect on this particular motion.

The House agreed to the motion to resolve into the Committee.

On June 8, 1961,<sup>(9)</sup> Mr. Gross submitted the “highly privileged motion” that the House resolve itself into the Committee of the Whole for the consideration of House Resolution 303 disapproving a reorganization plan; the resolution had been favorably reported from the Committee on Government Operations.

The motion was rejected, but Speaker Pro Tempore Oren Harris, of Arkansas, stated that such rejection would not preclude later consideration of the resolution.

*Parliamentarian's Note:* Under the 1949 statute, a Member moving to discharge the Government

8. 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess.

9. *Id.* at pp. 9775-77.

Operations Committee was required to qualify as favoring the disapproval resolution, but once that committee had reported either favorably or adversely, any Member could call up the resolution, which was then on the Union Calendar, by moving to go into Committee of the Whole.

**§ 3.7 A motion to resolve into Committee of the Whole for consideration of a concurrent resolution disapproving an agency action is highly privileged and may be offered before the third day on which a report thereon is available, since, under an exception now contained in Rule XI, the requirement of clause 2(l)(6) of that rule that committee reports be available to Members for three days is not applicable to a measure disapproving a decision by a government agency.**

On May 26, 1982,<sup>(10)</sup> a motion was made, pursuant to section 21(b) of the Federal Trade Commission Improvements Act,<sup>(11)</sup> for consideration of a concurrent resolution disapproving a rule promul-

gated by the Federal Trade Commission.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, pursuant to the provisions of section 21(b) of Public Law 96-252, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate concurrent resolution (S. Con. Res. 60) disapproving the Federal Trade Commission trade regulation rule relating to the sale of used motor vehicles; and pending that motion, Mr. Speaker, I move that general debate on the Senate concurrent resolution be limited to not to exceed 2 hours, 1 hour to be controlled by the gentleman from New Jersey (Mr. Florio) and 1 hour to be controlled by the gentleman from New York (Mr. Lee). . . .

MR. [BENJAMIN S.] ROSENTHAL [of New York]: Mr. Speaker, I make a point of order against consideration of this concurrent resolution on the ground that it violates subsection 6 of section 715, which in essence requires a 3-day layover of the matter under consideration. The rule says:

Nor shall it be in order to consider any measure or matter reported by any committee unless copies of such report and reported measure have been available to the Members for at least three calendar days.

There is no report available, Mr. Speaker, to the members of the committee or the Members of the House in this matter under consideration, and therefore it would be in violation of the rules to consider it. I am very much aware, Mr. Speaker, that there is an additional paragraph under the rule which says: "The subparagraph shall not apply to two exceptions."

10. 128 CONG. REC. 12027, 12028, 97th Cong. 2d Sess.

11. 15 U.S.C. 57a-1(b)

In other words, there are two exceptions under which the 3-day layover and requirement that a report is necessary can be waived. . . .

The second section, subsection (b) says:

Any decision, determination or action by a government agency which would become or continue to be effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

Now, I am assuming, Mr. Speaker, that the proponents of the resolution under consideration would suggest that the waiver provision of section (b) would apply to the matter under consideration, and they would suggest that the Federal Trade Commission is a Government agency in the common parlance of what is a Government agency. . . . The point that I make in support of my point of order is that in the House rules the definition of a Government agency has traditionally been that of an executive branch agency, not a quasi-judicial commission, such as the Federal Trade Commission. . . .

THE SPEAKER:<sup>(12)</sup> The Chair is ready to rule.

The gentleman from New York (Mr. Rosenthal), makes the point of order against the consideration of Senate Concurrent Resolution 60 on the ground that the report accompanying that resolution has not been available for 3 days as required by clause 2(l)(6), rule XI. The report from the Committee on Energy and Commerce was filed yesterday and will be available to members during the debate, but was not available for 3 days.

12. Thomas P. O'Neill, Jr. (Mass.).

Section 21(b)(3)A of the Federal Trade Commission Improvements Act of 1980 provided that:

When a committee has reported a concurrent resolution, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives and shall not be debatable.

Now the Chair has consistently endeavored to interpret such provisions of law in conjunction with clause 2(l)(6) of rule XI, both of which are readopted as rules of the 97th Congress at the beginning of this Congress, so as to require that Members have 3 days to read accompanying reports unless the exception contained in clause 2(l)(6), rule XI, becomes applicable. In this case, the Chair believes that the exception contained in that rule is applicable, and the Chair will read the exception in relevant part:

This subparagraph shall not apply to . . . (B) any decision, determination or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress. For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the Government of the District of Columbia.

15 U.S.C. 41 establishes the Federal Trade Commission as a "commission." In the opinion of the Chair, the Federal Trade Commission is an instrumentality of the U.S. Government. The President's budget on page 1-v45 lists

the Federal Trade Commission as an independent agency. It is agreed that the proposed FTC regulation in question becomes effective at midnight tonight, the expiration of the 90 calendar day period pursuant to sec. 21(a)(2) of the act, unless disapproved by adoption of a concurrent resolution of disapproval.

The report accompanying the Legislative Reorganization Act of 1970 which first incorporated the 3-day rule describes the intention of the exception to the rule to apply to "legislative veto procedures".

Thus the Chair rules that the exception from the 3-day rule is applicable in the instant case and the availability of the report on Senate Concurrent Resolution 60 is not a prerequisite for the consideration of the concurrent resolution. The Chair overrules the point of order.

***—Motion That Committee of the Whole Be Discharged and Bill Laid on Table Not in Order***

**§ 3.8 To a motion that the House resolve itself into the Committee of the Whole for the consideration of a bill, a motion that the Committee be discharged and that the bill be laid on the table is not preferential and is not in order.**

On Apr. 2, 1938,<sup>(13)</sup> Mr. John J. Cochran, of Missouri, moved that

13. 83 CONG. REC. 4621, 75th Cong. 3d Sess.

the House resolve itself into the Committee of the Whole for the consideration of a bill. Mr. John J. O'Connor, of New York, then made the following motion:

Mr. O'Connor of New York moves that the Committee of the Whole House on the State of the Union be discharged from further consideration of the bill S. 3331 and that said bill be laid on the table.

Mr. Lindsay C. Warren, of North Carolina, made the point of order that the motion was dilatory, and Mr. O'Connor asserted that under the rules of the House the motion was preferential, both as to discharge and as to laying on the table.

Speaker William B. Bankhead, of Alabama, ruled as follows:

The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Committee of the Whole House on the State of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.

The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now pending is a simple motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, and under the precedents a motion to discharge the Committee of the Whole House on the State of the Union from the further consideration of a bill is not a privileged motion.



The Chair sustains the point of order.

*Parliamentarian's Note:* The motion to go into Committee of the Whole is not debatable and therefore not subject to the motion to lay on the table (see 6 Cannon's Precedents § 726).

***Equal Privilege of Motions To Resolve Into Committee Pursuant to Separate Special Rules***

**§ 3.9 Motions that the House resolve into the Committee of the Whole for initial or further consideration of separate bills pursuant to separate special rules adopted by the House are of equal privilege, and the Speaker may exercise his discretionary power of recognition as to which bill shall be next eligible for consideration.**

On Sept. 22, 1982,<sup>(14)</sup> where the Committee of the Whole had risen following completion of general debate but prior to reading of a bill for amendment under the five-minute rule, the Speaker Pro Tempore indicated in response to a parliamentary inquiry that he would exercise his power of rec-

14. 128 CONG. REC. 24690, 24691, 97th Cong. 2d Sess.

ognition to permit consideration of another bill, rather than return to that bill under the five-minute rule.

MR. [WALTER B.] JONES of North Carolina: Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

THE CHAIRMAN: Does the gentleman wish to make a motion at this point?

MR. JONES of North Carolina: Yes, Mr. Chairman. I make a motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Bennett) having assumed the chair, Mr. Simon, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5543) to establish an ocean and coastal resources management and development fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund, had come to no resolution thereon.

MR. JONES of North Carolina: Mr. Speaker, I have a parliamentary inquiry. . . .

Was not the bill supposed to have been read while we were sitting in the Committee of the Whole, read for amendments? . . .

THE SPEAKER PRO TEMPORE:<sup>(15)</sup> The Committee has risen now, and the Chair does not know of any way of automatically going back at this point to do that. If the Committee of the

15. Charles E. Bennett (Fla.).

Whole had proceeded to consider the bill for amendment, it would have conflicted with a determination made by the leadership as to the legislative schedule, so the House should not resume consideration of the bill anyway at this point. In other words, the leadership had indicated that we would have general debate only today. . . .

MR. JONES of North Carolina: Mr. Speaker, another parliamentary inquiry, or statement. I was assured by the leadership that if there were no amendments, we would conclude the bill. I do not anticipate any amendments. . . .

THE SPEAKER PRO TEMPORE: The Committee of the Whole has risen. There is nothing in a parliamentary way the House could do to reserve consideration except to consider a motion to resolve into the Committee of the Whole for the further consideration of the bill.

MR. JONES of North Carolina: A parliamentary inquiry, Mr. Speaker. Would I have the privilege as the Chairman of this committee to move that the House resolve itself into the Committee once again?

THE SPEAKER PRO TEMPORE: . . . Somebody has sent for the gentleman from California (Mr. Waxman), who will make a motion of equal privilege . . . and he is undoubtedly on his way. The Chair would be glad to respond to any further conversation that the gentleman would want to have on this subject which would be in order, until the gentleman arrives. . . .

The Chair is following the wishes of the leadership and, therefore, would not recognize any Member for the purpose of moving that the House resolve

itself into the Committee of the Whole for further consideration of the bill at this time. . . .

The gentleman from California (Mr. Waxman) has now arrived, and he is recognized.

MR. [HENRY A.] WAXMAN [of California]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6173) to amend the Public Health Service Act.

### ***Question of Consideration Inapplicable to Motion To Resolve***

**§ 3.10 The question of consideration cannot be raised against the motion to resolve into the Committee of the Whole for the consideration of a proposition.**

It is well established that the question of consideration may not be raised against a motion to resolve into Committee of the Whole. This principle is discussed in more detail in §§ 5.5, 5.6, *infra*.

### ***Motion To Postpone—When Applicable to Motion To Resolve***

**§ 3.11 Although the motion to postpone is not ordinarily applicable to a motion that the House resolve itself into the Committee of the Whole, the motion to resolve into the Committee may be sub-**

**ject to such a motion where a statute<sup>(16)</sup> enacted under the rulemaking power of the House of Representatives accords privilege to the motion to resolve into the Committee of the Whole for consideration of matters specified in the statute and allows a motion to postpone in the House with respect to such consideration.**

On Aug. 3, 1977,<sup>(17)</sup> the following proceedings occurred in the House:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Speaker, pursuant to section 152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 653, to disapprove the recommendation of the President to extend the authority in section 402(c) of the Trade Act of 1974 with respect to the Socialist Republic of Romania for an additional 12 months.

The Clerk read the title of the resolution.

The Clerk read the resolution, as follows:

H. RES. 653

*Resolved*, That the House of Representatives does not approve the ex-

tension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 3, 1977, with respect to the Socialist Republic of Romania.

MR. [WILLIAM A.] STEIGER [of Wisconsin]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Steiger moves, pursuant to section 152(d)(3) of the Trade Act of 1974, to postpone indefinitely the motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 653.

THE SPEAKER PRO TEMPORE:<sup>(18)</sup> The question is on the preferential motion offered by the gentleman from Wisconsin (Mr. Steiger).

The question was taken; and on a division (demanded by Mr. Ashbrook) there were—ayes 149, noes 33. . . .

So the preferential motion was agreed to.

Similarly, on Mar. 10, 1977,<sup>(19)</sup> the House had adopted a motion to postpone indefinitely a motion to resolve into the Committee of the Whole for the consideration of a resolution, reported adversely by the Committee on Ways and Means, disapproving a presidential determination denying import relief to the United States honey industry, pursuant to section 152(d)(1) and (d)(3) of the Trade Act of 1974:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Speaker, pursuant to section

16. See, for example, the Trade Act of 1974, section 152(d)(1) and (d)(3), Pub. L. 93-618, 88 Stat. 1980.

17. 123 CONG. REC. 26528, 95th Cong. 1st Sess.

18. Dan Rostenkowski (Ill.).

19. 123 CONG. REC. 7021, 95th Cong. 1st Sess.

152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Concurrent Resolution 80, to disapprove the determination of the President denying import relief under the Trade Act of 1974 to the U.S. honey industry.

The Clerk read the title of the concurrent resolution.

MR. [WILLIAM A.] STEIGER [of Wisconsin]: Mr. Speaker, pursuant to section 152(d)(3) of the Trade Act of 1974, I move to postpone indefinitely the motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of House Concurrent Resolution 80.

MR. VANIK: Mr. Speaker, I ask unanimous consent to address the House for 1 minute before we proceed.

THE SPEAKER:<sup>(20)</sup> Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. VANIK: Mr. Speaker, on February 9 the Subcommittee on Trade ordered that House Concurrent Resolution 80 be reported unfavorably to the full committee. House Concurrent Resolution 80 provides for congressional disapproval of the determination by the President not to provide import relief to the U.S. honey industry under section 203 of the Trade Act of 1974. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Wisconsin (Mr. Steiger).

The motion was agreed to.

20. Thomas P. O'Neill, Jr. (Mass.).

A motion to reconsider was laid on the table.

On Aug. 18, 1982,<sup>(1)</sup> the House adopted a motion to postpone indefinitely a motion to resolve into the Committee of the Whole for the consideration of a resolution, reported adversely by the Committee on Ways and Means, disapproving extension of presidential authority to waive freedom of emigration requirements affecting re. Romania, pursuant to section 152(d) of the Trade Act of 1974,<sup>(2)</sup> thereby approving extension of presidential authority.

MR. [SAM M.] GIBBONS [of Florida]: Mr. Speaker, pursuant to section 152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for immediate consideration of the resolution (H. Res. 521), disapproving extension of Presidential authority to waive freedom of emigration requirements with respect to the Socialist Republic of Romania.

The Clerk read the title of the resolution.

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, pursuant to section 152(d)(3) of the Trade Act of 1974, I move that consideration of House Resolution 521 be postponed indefinitely.

THE SPEAKER:<sup>(3)</sup> The question is on the motion offered by the gentleman from Minnesota (Mr. Frenzel).

1. 128 CONG. REC. 21934, 97th Cong. 2d Sess.
2. Public Law 93-618, 88 Stat. 1980.
3. Thomas P. O'Neill, Jr. (Mass.).

The motion was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: The matter is postponed.

*Parliamentarian's Note:* Section 152(d)(3) of the Trade Act, like a number of other statutes providing privileged procedures for consideration of legislative disapproval measures, states: "Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate." Since resolutions of disapproval under the Trade Act, as well as most other disapproval resolutions, require consideration in Committee of the Whole, it is clear that the subsection requires the motion to postpone to be applicable to the motion to resolve into the Committee of the Whole.

### ***Effect of Rejecting Motion To Resolve***

**§ 3.12 Where the House has agreed that consideration of a bill takes precedence over other legislation, other legislation of lesser privilege may be considered by rejecting the motion that the House resolve into the Committee of the Whole.**

On May 9, 1950,<sup>(4)</sup> Mr. Clare E. Hoffman, of Michigan, made the following point of order:

Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516.

Mr. George H. Mahon, of Texas, was recognized to speak on the point of order:

Mr. Speaker, on April 5, 1950, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786.

4. 96 CONG. REC. 6720-24, 81st Cong. 2d Sess.

Mr. Speaker, I believe that the Record would speak for itself.

**Speaker Pro Tempore John W. McCormack, of Massachusetts, ruled as follows:**

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection. . . .

The Chair will state that the House always has a constitutional right and

power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

**§ 3.13 The rejection of a motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan does not preclude a subsequent motion to the same effect.**

On June 8, 1961,<sup>(5)</sup> Mr. H. R. Gross, of Iowa, indicated his intention to move that the House resolve itself into the Committee of the Whole to consider a resolution disapproving a reorganization

5. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess.

plan. Before the motion was made and rejected by the House, Speaker Pro Tempore Oren Harris, of Arkansas, answered parliamentary inquiries on the effect of a rejection of the motion:

MR. [CHARLES A.] HALLECK [of Indiana]: If the pending motion is voted down, would it still be in order at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. The committee has reported adversely in respect to plan No. 2. I am going to vote against that plan and in support of the resolution of the committee. But under my responsibility as the minority leader and under my agreement with the majority leader, I do not see how I could vote today unless, under the situation as it exists, that vote today would be conclusive as to plan No. 2. . . .

THE SPEAKER PRO TEMPORE: In the opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.

MR. HALLECK: In other words, the action that would be taken today would not be final?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

***Automatic Resolution Into Committee on Calendar Wednesday***

**§ 3.14 The question of consideration being decided in the affirmative, when raised against a bill on the Union**

**Calendar called up under the Calendar Wednesday rule, the House automatically resolved itself into the Committee of the Whole.**

On May 4, 1960,<sup>(6)</sup> Speaker Sam Rayburn, of Texas, responded as follows to parliamentary inquiries on the Calendar Wednesday call of committees:

MR. [CHARLES A.] HALLECK [of Indiana]: In the event that the motion to consider the bill should not prevail in the House, would it still be possible if a rule were reported by the Rules Committee for the bill to be brought before the House at a later date under a rule?

THE SPEAKER: The Chair would think the House could adopt any rule reported by the Committee on Rules.

The Chair will state to the gentleman from Indiana and to the House that when we reach the point of approving the Journal, the Chair will then order a call of the committees; and when the Committee on Banking and Currency is recognized and the gentleman from Kentucky [Mr. Spence] presents his bill, when the title of the bill is read the House automatically resolves itself into the Committee of the Whole.

MR. HALLECK: But is a motion necessary to consider the bill?

THE SPEAKER: The question of consideration can always be raised.

MR. HALLECK: And on that, of course, it would be possible to have a record vote in the House.

THE SPEAKER: In the opinion of the Chair, that would be correct.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DAVIS of Georgia: The Chair has just stated—I believe I understood it this way—that when the bill is called up by the chairman of the Committee on Banking and Currency and the title is read the House automatically resolves itself into the Committee of the Whole.

THE SPEAKER: That is the rule.

MR. DAVIS of Georgia: But the motion raising the question must come before the title of the bill is read.

THE SPEAKER: After the title is read.

MR. DAVIS of Georgia: Sir?

THE SPEAKER: After the title is read.

MR. DAVIS of Georgia: There would still be time enough for it before the House automatically goes into the Committee of the Whole.

THE SPEAKER: That is correct.

Following the parliamentary inquiries, the call of committees began and the question of consideration was raised against a bill called up by the Committee on Banking and Currency (S. 722, the Area Development Act). The question of consideration was decided in the affirmative, and the Speaker directed the House to automatically resolve itself into the Committee of the Whole for the consideration of the bill.<sup>(7)</sup>

6. 106 CONG. REC. 9417, 86th Cong. 2d Sess.

7. *Id.* at pp. 9417, 9418.



***Consideration by Motion To Discharge***

**§ 3.15 The House may resolve into the Committee of the Whole to consider a bill brought before the House by adoption of a motion to discharge the committee to which the bill had been referred.**

On Apr. 26, 1948,<sup>(8)</sup> the following procedure was used for consideration in the Committee of the Whole of a bill brought before the House by a motion to discharge a committee:

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, I call up the motion to discharge the Committee on Agriculture from the further consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine.

THE SPEAKER:<sup>(9)</sup> Did the gentleman sign the petition?

MR. RIVERS: I did, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

The Clerk read the title of the bill.

THE SPEAKER: The gentleman from South Carolina is entitled to 10 minutes.

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Speaker, I ask to be recognized in opposition to the motion.

THE SPEAKER: The gentleman from Kansas [Mr. Hope] is recognized for 10 minutes.

MR. RIVERS: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RIVERS: The proponents of the motion have 10 minutes and the opponents have 10 minutes, and the proponents have the right to close the debate?

THE SPEAKER: The gentleman has stated the situation accurately. He has the right to close debate. . . .

All time has expired.

The question is, Shall the Committee on Agriculture be discharged from further consideration of the bill H.R. 2245?

MR. HOPE: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 235, nays 121, answered “present” 2, not voting 72. . . .

MR. RIVERS: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 3 hours, the time to be equally divided and controlled by the gentleman from Kansas [Mr. Hope] and myself.

THE SPEAKER: Is there objection to the request of the gentleman from South Carolina?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole

8. 94 CONG. REC. 4835, 4840–42, 80th Cong. 2d Sess.

9. Joseph W. Martin, Jr. (Mass.).

House on the State of the Union for the consideration of the bill H.R. 2245.

#### **§ 4. Consideration in the House as in the Committee of the Whole**

Consideration in the House as in the Committee of the Whole involves a procedure under which propositions are considered for debate and amendment under the five-minute rule, normally without general debate but with all the motions utilized in the House available as provided in clause 4 of Rule XVI. Under this procedure, the House does not resolve into the Committee nor does a Chairman preside, the Speaker instead continuing to preside.

The normal method for initiating consideration in the House as in the Committee of the Whole is by unanimous consent. A motion that a Union Calendar bill be considered under that procedure is not in order.<sup>(10)</sup> An order or request for this procedure means that the bill or resolution will be considered as having been read for amendment and will be open for amendment and debate under the five-minute rule.<sup>(11)</sup>

10. See § 4.11, *infra*. Generally, see Ch. 19, *supra*.

11. See Jefferson's Manual, *House Rules and Manual* § 424 (1995). For the

Where a bill is or would be on the Union Calendar, and it is called up by unanimous consent for "immediate consideration" (as opposed to "immediate consideration in the House"), the unanimous-consent request carries by implication the requirement that if the request is agreed to the bill will be considered in the House as in the Committee of the Whole.<sup>(12)</sup>

On occasion, a resolution from the Committee on Rules has provided for the consideration of a proposition in the House as in Committee of the Whole.<sup>(13)</sup>

#### ***Special Rules Providing for Consideration***

##### **§ 4.1 Special rules may provide for the consideration of designated bills in the House as in Committee of the Whole; thus, a resolution was re-**

procedure under the five-minute rule in the House as in the Committee of the Whole, see § 70, *infra*.

12. See §§ 4.5–4.8, 4.12, *infra*. Alternatively, a unanimous-consent request for the consideration of a Union Calendar bill may specify that the bill be considered "under the general rules of the House," that is, in the Committee of the Whole House on the State of the Union (see §§ 3.4, 3.5, *supra*), or that it be considered in the House.

13. See §§ 4.1, 4.2, *infra*.